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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/815,588
Filing Date: April 01, 2004
Appellant(s): MCMANUS ET AL.

MAILED

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GROUP 3600

Ryan Barker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7-16-07 appealing from the Office action
mailed 2-5-07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1,3, 7, 8, 12-14, 20, 25, 36, 42-46, 49, and 51.

Allowed claims: 24, 37, 47, 48, and 50.

Claims objected to: 52-55.

Claims withdrawn: 4-6, 15-19, 21-23, 26-29, and 38-41.

Claims rejected: 1-3, 7-8, 12-14, 20, 25, 36, 42-46, 49, and 51.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claims 1-55 appears on pages i-vii of the Appendix to the appellant's brief. The minor errors are as follows: claims 4-6 should be marked as "withdrawn".

(8) Evidence Relied Upon

6,213,531	COREY ET AL	4-2001
5,127,697	ST. MARIE	7-1992
4,784,429	HODGES	11-1988
4,133,571	FILLIOS	1-1979
6,367,858	BRADFORD	4-2002
6,302,475	ANDERSON	10-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7, 12-13, 20, 25, and 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Corey et al.

Note body expansion portion 40 movable to define volumes as recited. The device includes a first seat supported by the body as broadly claimed.

With regard to the newly added language to base claim 1, Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 43 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 43 would serve to absorb shock to the rear portion 40 and prevent damage to the expandable cabin portion. Note for example, if a baseball or stone were accidentally thrown at portion 40 and struck element 43, element 43 would clearly absorb the shock of the ball or stone and protect the overall structure 40 from damage.

Claims 2 and 3, the device defines walls, panels, a roof, and a floor configured as broadly claimed.

Claim 7, the perimeter flange of panel 43 would engage an edge as broadly claimed – see figure 4 etc.

Claim 12, note aligned windows 34 and 44 (figure 4 and section 6, lines 13-20 etc.).

Claim 13, the flanges on either side of walls 42 which engage section 30 inner and outer surfaces of the rear wall thereof define seals engaging engagement surfaces as broadly claimed and as best understood.

Claim 20, the system teaches the use of multiple actuators (e.g. screws 81 etc.) which would define housings, brackets, and movable members as broadly claimed.

Claim 25, the device includes seats as broadly claimed – note figures 1, 4, 5, etc.

Claims 42 and 43, the device defines a seat that is configured as broadly claimed.

Claims 1-3, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by St. Marie '697.

Note body expansion portion 15+ (figure 1) movable to define volumes as recited.

Regarding claim 1, the bottom platform of the movable expansion portion would define a seat as broadly claimed. Moreover, St. Marie includes additional conventional seats which would read on the seat as broadly claimed.

With regard to the newly added language to base claim 1, as noted above Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 17 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 17 would serve to absorb at least some shock and prevent at least some damage to the surrounding structure of the device – note for example discussion above in paragraph 4 of the instant action.

Claims 2 and 3, the device defines walls, panels, a roof, and a floor configured as broadly claimed.

Claim 14, the device defines wheel wells – see figure 1 etc. The lower wall is positioned as broadly claimed.

Claims 1-2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges.

Note body 55+, expansion portion (2, 14, 26+), and a first seat as broadly claimed.

With regard to the newly added language to base claim 1, as noted above Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 32 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 32 would serve to absorb at least some shock and prevent at least some damage to the surrounding structure of the device – note for example discussion above in paragraph 4 of the instant action.

Claim 2, the fixed vehicle portion defines a roof extending between rear panels and a floor. The expansion portion includes a rear wall 38+, side walls (4,16,28+) as broadly claimed, an upper wall (e.g. 15) as broadly claimed, and a lower wall 27 as broadly claimed.

Claim 8, element 38+ defines a lift gate door with a hatch window as broadly claimed.

Claims 1-3 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fillios. Note body 14+ and expansion portion 16+ movable to define volumes as recited. The device includes a first seat supported by the body as broadly claimed.

With regard to the newly added language to base claim 1, as noted above Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 30 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 30 would serve to absorb at least some shock and prevent at least some damage to the surrounding structure of the device – note for example discussion above in paragraph 4 of the instant action.

Claims 2 and 3, the device defines walls, panels, a roof, and a floor configured as broadly claimed.

Claim 12, note windows 36 and 40.

Claims 7 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradford '858.

Note expansion portion (110,112+ or 28+) and fixed body 23+. The body includes a seat as broadly claimed. The body and portion define walls, panels, a roof, and a floor as broadly claimed (e.g. the perimeter walls of each member 110+,23+).

With regard to the newly added language to base claim 1, as noted above Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 32 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 32 would serve to absorb at least some shock and prevent at least some damage to the surrounding structure of the device – note for example discussion above in paragraph 4 of the instant action.

Regarding claim 7, the device is deemed configured as broadly claimed – see figure 9A etc.

Regarding claim 13, the device is deemed to define seals and surfaces as broadly claimed and as best understood – note figures 3, 8, 9A etc.

Claims 1 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson '475.

Anderson teaches a vehicle with a body and expansion portion (62a, 62b+) movable to define volumes as recited. The device includes a first seat supported by the body as broadly claimed.

With regard to the newly added language to base claim 1, as noted above Webster's Ninth New Collegiate Dictionary (1990) defines a bumper as "a device for absorbing shock or preventing damage". Element 66 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 66 would serve to absorb at least some shock and prevent at least some damage to the surrounding structure of the device – note for example discussion above in paragraph 4 of the instant action. Claim 20, actuation and support assemblies 76 include brackets, housings, and movable members configured as broadly claimed – see figure 2 etc.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 25, 36, and 44-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fillios.

Regarding claims 25, 36, and 44, Fillios teaches all of the features of claim 1 as discussed above and further teaches a plurality of longitudinally spaced seats movable with the expansion portion – note circles representing seats around the rectangular table in the plan view of figure 11. While the reference is silent as to if these expansion portion seats are connected to the lower wall, it is assumed they are connected as such is the common practice in the art.

If it is assumed that the expansion portion seats are not connected to the lower wall (i.e. they merely rest on the lower wall), it would have been obvious to one of ordinary skill in the art to connect the seats to the lower wall to prevent movement and possible damage to the surrounding components (e.g. by the seats tumbling into the cabinets etc.) during travel in view of known art practices.

Regarding claim 45, at least some of the horizontal surfaces of the dashboard section of the vehicle would define a table as broadly claimed.

Claim 46, the seats are configured as broadly claimed.

Claims 44-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Anderson '475.

Regarding claims 44 and 46, Anderson teaches all of the features of claim 1 as discussed above and further teaches a plurality of longitudinally spaced seats movable with the expansion portion (e.g. seats 146) as broadly claimed. While the reference is silent as to if these expansion portion seats are connected to the lower wall, it is assumed they are connected as such is the common practice for such structures in the art.

If it is assumed that the expansion portion seats are not connected to the lower wall (i.e. they merely rest on the lower wall), it would have been obvious to one of ordinary skill in the art to connect the seats to the lower wall to prevent movement and possible damage to the surrounding components (e.g. by the seats tumbling into the cabinets etc.) during travel in view of known art practices.

Regarding claim 45, note table 140 etc.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson '475. Anderson is deemed to anticipate or fairly suggest the instant combination of claim 45 as discussed above. Anderson teaches a plurality of tables (e.g. 140, 176, etc).

Regarding claim 49, Anderson fails to specifically teach that one of the tables is collapsible as recited.

Collapsible tables for camper structures are notoriously well known in the art. To fabricate one of the tables of Anderson (e.g. table 176) as a collapsible table in order to

allow more system flexibility/utility would have been obvious to one of ordinary skill in the art in view of known art practices and would not constitute a patentably distinct from the teachings of Anderson.

(10) Response to Argument

Applicant has included language to base claim 1 requiring a “bumper” coupled to the expansion portion to move therewith and relies on such limitation in combination with the other recited elements to define over the relied upon prior art. As noted above Webster’s Ninth New Collegiate Dictionary (1990) defines a bumper as “a device for absorbing shock or preventing damage”.

With regard to the Corey et al. reference, as discussed in the detailed rejection above wall element 43 of the relied upon reference defines a “bumper” as newly broadly claimed. Clearly element 43 would serve to absorb shock to the rear portion 40 and prevent damage to the expandable cabin portion. Note for example, if a baseball or stone were accidentally thrown at portion 40 and struck element 43, element 43 would clearly absorb the shock of the ball or stone and protect the overall structure 40 from damage.

With regard to the St. Marie reference, as discussed in the detailed rejection above, door/wall element 17 of the relied upon reference defines a “bumper” as newly broadly claimed. Clearly element 17 would serve to absorb at least some shock and prevent at least some damage to the surrounding expandable structure of the device. Note for

example, if a baseball or stone were accidentally thrown at portion 15+ and struck element 17, element 17 would clearly absorb the shock of the ball or stone and protect the overall structure 15+ from damage.

With regard to the Hodges reference, as discussed in the detailed rejection above, element 32+ of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 17 would serve to absorb at least some shock and prevent at least some damage to the surrounding expandable structure of the device. Note for example, if a baseball or stone were accidentally thrown at exapandable portion (2, 14, 26+) and struck element 32, element 32 would clearly absorb the shock of the ball or stone and protect the overall structure (2,14,26+) from damage.

With regard to the Fillios reference, as discussed in the detailed rejection above, element 30 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 30 would serve to absorb at least some shock and prevent at least some damage to the surrounding expandable structure of the device. Note for example, if a baseball or stone were accidentally thrown at exapandable portion 16+ and struck element 30, element 30 would clearly absorb the shock of the ball or stone and protect the overall structure 16+ from damage.

With regard to the Bradford reference, as discussed in the detailed rejection above, element 32 of the relied upon reference defines a "bumper" as newly broadly claimed.

Clearly element 32 would serve to absorb at least some shock and prevent at least some damage to the surrounding expandable structure of the device. Note for example, if a baseball or stone were accidentally thrown at exapandable portion (110,112+ or 28+) and struck element 32, element 32 would clearly absorb the shock of the ball or stone and protect the overall structure (110,112+ or 28+) from damage.

With regard to the Anderson reference, as discussed in the detailed rejection above, wall element 66 of the relied upon reference defines a "bumper" as newly broadly claimed. Clearly element 66 would serve to absorb at least some shock and prevent at least some damage to the surrounding expandable structure of the device. Note for example, if a baseball or stone were accidentally thrown at exapandable portion (62a, 62b+) and struck element 66, element 66 would clearly absorb the shock of the ball or stone and protect the overall structure (62a, 62b+) from damage.

With regard to each of the references discussed above, applicant further argues that one of ordinary skill in the art would not find the relied upon "bumper" structures if asked to identify a "bumper" in each of these prior art references. Such argument is mostly irrelevant in that the relied upon references contain structure fairly readable on a "bumper" as detailed above. Each relied upon structure functions as a "bumper" which is supported by the definition of a bumper as included in Webster's Ninth New Collegiate Dictionary (1990) discussed above. Whether or not one of ordinary skill in the art would identify the relied upon structures as a "bumper" is not particularly

pertinent. The references define elements fairly readable on a bumper and meet the broad claim language in this regard.

With additional regard to the references discussed above, applicant argues that any force experienced by the relied upon "bumper" elements would be "inherently experienced" by the attached expandable portions. Such is not well taken. As the bumper devices are not purely rigid, while it may be that some of a force absorbed by the relied upon bumper elements would be transferred to the attached portions, clearly some force would be absorbed by the bumper elements. Additionally, the relied upon bumper elements could absorb damage (e.g. be dented etc.) by an applied force without damaging the surrounding expandable portions.

Regarding applicant's comments directed toward claim 2 and assumably the Corey et al. reference, at least element 44 or Corey et al. defines a rear wall as broadly claimed. Separate element 43 serves as the bumper.

Finally, with regard to the St. Marie reference applicant argues that the examiner's interpretation of a bumper would apply only to structure providing for "perfectly elastic collision". Such is not the case nor is such the examiner's position. For example, many low level impacts to the relied upon bumper/wall element 17 of St. Marie would be absorbable by the element 17 and would not result in plastic deformation (i.e. denting) of such element. Moreover, even if such element 17 and/or the surrounding

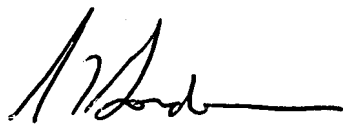
expandable structure were plastically deformed during an impact, element 17 would still absorb some shock and prevent some damage to the surrounding portions. Applicant's comments in this regard are not completely understood. Any bumper in the art would typically elastically absorb the impact of certain applied forces and plastically deform under other forces.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

 11/13/07
Stephen Gordon

Primary Examiner

Conferees:

Glenn Dayoan 

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